



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-846]

Refillable Stainless Steel Kegs from the Federal Republic of Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that refillable stainless steel kegs (kegs) from the Federal Republic of Germany (Germany) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2017, through June 30, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Michael A. Romani, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-0198.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the notice of initiation of this investigation on October 16, 2018.<sup>1</sup> This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of

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<sup>1</sup> See *Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico: Initiation Of Less-Than-Fair-Value Investigations*, 83 FR 52195 (October 16, 2018) (*Initiation Notice*).

operations on January 29, 2019.<sup>2</sup> On March 19, 2019, at the request of the petitioner, Commerce postponed the deadline for the preliminary determination until May 28, 2019.<sup>3</sup> For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>4</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

#### Scope of the Investigation

The products covered by this investigation are refillable stainless steel kegs from Germany. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,<sup>5</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>6</sup> Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to

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<sup>2</sup> *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding affected by the partial federal government closure have been extended by 40 days.

<sup>3</sup> *See Refillable Stainless Steel Kegs from the Federal Republic of Germany, Mexico and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 84 FR 10033 (March 19, 2019).

<sup>4</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Refillable Stainless Steel Kegs from the Federal Republic of Germany," dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum).

<sup>5</sup> *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>6</sup> *See Initiation Notice*, 83 FR at 52196.

the record of this investigation, and a discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>7</sup> The scope case briefs were due on May 6, 2019, 30 days after the publication of *Kegs from China Preliminary CVD Determination*.<sup>8</sup> There will be no further opportunity for comments on scope-related issues. Commerce is preliminarily modifying the scope language as it appeared in the initiation notice.<sup>9</sup> *See* the revised scope in Appendix I to this notice.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

### All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers

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<sup>7</sup> *See* Memorandum, “Refillable Stainless Steel Kegs from the People’s Republic of China, Germany, and Mexico: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated March 29, 2019 (Preliminary Scope Decision Memorandum) at 4-15.

<sup>8</sup> The scope case briefs were due 30 days after the publication of *Refillable Stainless Steel Kegs from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 13634 (April 5, 2019) (*Kegs from China Preliminary CVD Determination*). *See* the Preliminary Scope Decision Memorandum at 5. Because the deadline fell on Sunday, May 5, 2019, the actual deadline for the scope case briefs was Monday, May 6, 2019. *See* 19 CFR 351.303(b)(1) (“For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.”). The deadline for scope rebuttal briefs was Monday, May 13, 2019.

<sup>9</sup> *See* Preliminary Decision Memorandum at 4-5; *see also* Preliminary Scope Decision Memorandum at 15.

individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Here, the “all others” rate is based on the estimated weighted-average dumping margin calculated for Blefa GmbH (Blefa), the only entity for which Commerce calculated a rate.<sup>10</sup>

#### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Producer/Exporter</b>	<b>Weighted-Average Dumping Margin (Percent)</b>
Blefa GmbH	8.61%
All Others	8.61%

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for Blefa will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is Blefa, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for Blefa; and

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<sup>10</sup> See section 735(c)(5)(A) of the Act.

(3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

#### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this investigation.<sup>11</sup> Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>12</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after

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<sup>11</sup> Case briefs, other written comments, and rebuttal briefs should not include scope-related issues. See “Scope Comments” section, *supra*.

<sup>12</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 28, 2019, pursuant to 19 CFR 351.210(e), Blefa requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>13</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and

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<sup>13</sup> See Blefa's Letter, "Refillable Stainless Steel Kegs from the Federal Republic of Germany: Blefa Requests for Extension of Final Determination and Provisional Measures," dated April 28, 2019.

extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 28, 2019.

Christian Marsh,  
Deputy Assistant Secretary  
for Enforcement and Compliance.

## Appendix I

### Scope of the Investigation

The merchandise covered by this investigation are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a “D Sankey” extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:

- (1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, “hopper” or “cone” shaped vessels);
- (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs);
- (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and
- (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.



## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Scope Comments
- VI. Product Characteristics
- VII. Methodology
  - A. Fair Value Comparisons
    - 1. Determination of Comparison Method
    - 2. Results of the Differential Pricing Analysis
- VIII. Date of Sale
- IX. Product Comparisons
- X. Export Price and Constructed Export Price
- XI. Normal Value
  - A. Comparison Market Viability
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  - C. Cost of Production Analysis
    - 1. Calculation of Cost of Production
    - 2. Test of Home Market Sale Prices
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- XII. Currency Conversion
- XIII. Verification
- XIV. Recommendation

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